



ARRESTS IN KUWAIT

AN OVERVIEW OF THE LEGAL PROCESS



*A Publication of the Embassy of the United States
American Citizen Services Unit*

Revision Date: May 11, 2015

ARRESTS IN KUWAIT

Kuwait is an independent, sovereign country. One of the chief attributes of sovereignty is the right to make and enforce laws within a country's own borders. Anyone who breaks the law in Kuwait is subject to prosecution under the Kuwaiti legal system. Just as in the United States, the government has the internationally recognized right to try foreigners as well as its own nationals within its territory. If a person is convicted and sentenced to imprisonment by a Kuwaiti court, this sentence will be served in a Kuwaiti prison.

A U.S. passport does not entitle its bearer to any special privileges. You should not expect to receive preferential treatment or expect that the same array of legal rights you enjoy under the U.S. judicial system.

Being arrested in a foreign country can be a bewildering and upsetting experience for you and for your family. The legal system in Kuwait is different than the system in the United States. If you do not speak Arabic, you may not understand what you're being asked or what is happening around you. It can be a confusing, even frightening, experience.

This overview describes the criminal justice system of Kuwait, including arrest, sentencing and being imprisoned. It includes information about your rights, what should be happening and when it should happen, and the support available to you as an American citizen. There is also information on bail, appeal, parole and deportation.

This document contains the following sections:

- The Kuwaiti Legal System
- The Role of the U.S. Embassy
- Arrest, Detention, and Trial Procedures
- Prison Life
- Release and Deportation

THE KUWAITI LEGAL SYSTEM

The Kuwaiti legal system is based on the Muslim faith and is codified into an “Islamicized” Napoleonic code. Family and personal status law in Kuwait is governed by religious courts. Unlike U.S. law, precedent established by previous cases is not considered when judging a case. Each case heard under this legal system is decided on its own particular merits, without necessarily consulting past decisions in similar cases. While judges prefer consistency in applying the law, they are not bound by precedent, as are judges in the American legal system.

THE ROLE OF THE U.S. EMBASSY

One of the most essential tasks of the Department of State and of U.S. embassies and consulates is to provide assistance to U.S. citizens incarcerated abroad. The State Department is committed to ensuring fair and humane treatment for American citizens imprisoned overseas. Consular officers assist incarcerated U.S. citizens and their families within the limits of their authority, in accordance with international law.

DUAL NATIONALS

If you are a dual Kuwaiti-American citizen, and you are arrested in Kuwait, under international law, the U.S. consular staff cannot provide formal assistance. Consular staff will provide whatever informal assistance the local authorities will allow.

WHAT CONSULAR OFFICERS DO

Once we are notified of your arrest, we will:

- Visit you as soon as possible
- Notify authorities of any medical issues you have or medications you may need
- Provide you with a list of local attorneys who speak English
- Provide a general overview of local criminal justice procedures
- Obtain a Privacy Act Waiver
- Notify family and/or friends, if you authorize us to do so
- Help family and/or friends establish an OCS trust so they can transfer funds to you, when permissible under prison regulations

If you are convicted of a crime and serve a prison sentence, we will:

- Visit you on a regular basis, usually once every six months
- Provide reading materials, subject to local laws and regulations
- Protest mistreatment or abuse to the appropriate authorities

WHAT CONSULAR OFFICERS CANNOT DO

In the popular culture, there are perceptions that American officials can do a number of things to help you if you find yourself in a difficult situation. Unfortunately, those perceptions are not always accurate.

American consular officers cannot:

- Secure your release or interfere in any way with local judicial procedures
- Independently investigate an alleged crime or the circumstances of your arrest
- Pay your fines or legal fees
- Pay your bail or sponsor you for bail
- Interpret for you at hearings or at your trial
- Give you legal advice
- Represent you in a legal proceeding

CONTACT INFORMATION FOR THE U.S. EMBASSY IN KUWAIT

Mail:	PO Box 77 Safat 13001 Kuwait
Telephone:	(965) 2259-1001
Fax:	(965) 2259-1348
Email:	KuwaitACS@state.gov

The U.S. Embassy is open from 8:00am until 4:30pm, Sunday to Thursday.

ARREST, DETENTION, AND TRIAL PROCEDURES

When the police make an arrest, they will begin an investigation or open a file on a suspect within 24 hours of the arrest. You may be released by the police pending further investigation before the opening of an official case file, or the authorities may determine that you can be released on bail or under the personal guarantee of a Kuwaiti citizen, usually your sponsor.

After the initial investigation, a prosecutor will decide how to proceed with your case. If the offense is minor, you may receive a warning and/or a fine, and then be released. If it is a more serious offense, you will likely remain in detention for several more days. The investigator or the prosecutor may then decide whether to release you on bail until your court date, or to keep you in detention until your trial.

Bail is allowed at the discretion of the prosecutor or the judge. Bail is not usually set in cases involving drugs, murder, and other serious offenses.

LEGAL REPRESENTATION

Consular staff cannot give you legal advice, nor can we provide a lawyer for you. The U.S. Embassy Kuwait website has a list of English-speaking attorneys who may be able to assist you.

NOTIFICATION OF THE EMBASSY

While international law requires that host country authorities notify U.S. consular officials of the arrest of an American citizen, the authorities don't always do so. If the authorities don't have proof that you are in fact an American citizen – for example, if you do not have your passport with you – they may not be certain that they should contact the U.S. Embassy. You should carry your passport and/or residency permit with you at all times.

Detainees are normally provided with an opportunity to make a telephone call. We recommend that if possible, you notify both your local sponsor and the U.S. Embassy if you can. In practice, the U.S. Embassy is often notified by family, friends, or employers. As soon as we are informed, we will do what we can to make arrangements to visit you at the earliest possible time.

CONTACTING OTHERS ABOUT YOUR ARREST AND THE PRIVACY ACT OF 1974

Under the Privacy Act of 1974, consular officers are forbidden from commenting on or sharing any knowledge they may have about any individual American citizen without that person's written consent. When we come to see you, we will ask you to identify anyone you'd like us to contact on your behalf, and we will ask you to waive your right to privacy under the Act so that we can call or email. If you don't remember the phone numbers of the people you'd like us to contact, we will do our best to find them.

Detainees will often give us names of family, trusted friends, employers, or sponsors in Kuwait to contact on their behalf. We will give them your messages, tell them how you are, and answer questions they may have about the legal system here.

TRAVEL BANS

If you are freed on bail, you will most likely have a travel ban placed on you. U.S. citizens who have been charged with criminal offenses, placed under investigation, are involved in unresolved financial disputes, or have unpaid debts are subject to Kuwaiti government travel bans. These bans, which are rigidly enforced, prevent you from leaving Kuwait for any reason until the matter is resolved.

The U.S. Embassy cannot help you remove a travel ban. Only Kuwaiti authorities can remove travel bans. You will not be allowed to leave Kuwait until your case has been resolved and any travel bans are lifted. Only after you successfully resolve any travel bans will you be allowed to leave Kuwait.

DETENTION

Police may not detain you for more than two days on their own authority. Within the first 48 hours, a case must be referred to a prosecutor (if you are accused of a felony) or an investigator (if you are accused of a misdemeanor). During this period, you will be taken to meet the district attorney, and he will decide whether you will be released or continue to be detained. If you are not released, your detention will continue where you were originally detained.

You may be released at any time without notice. If you are still detained after 10 days, you will have a short hearing before a judge, who will decide whether you will be released or if your detention will continue. If you are not released, you will be transferred to the Public Prison as a detainee, and the prosecutor or investigator will continue the investigation. Detention may not be extended for more than 10 days at one hearing, and may not be extended by a judge for more than 39 days in total.

Whenever an extension is requested, the judge will hold a hearing attended by both the prosecution and the defense, and will only rule on the extension, not on the charges. While judges are not allowed to extend detention for more than a total of 99 days, the court that will eventually hear the case *can* do so.

During detention, the investigator or prosecutor will question you and transcribe your statement in Arabic. The investigator or prosecutor will provide translation services if you and the investigator do not speak the same language. The Embassy does not provide translation services. Since the detainee is expected to sign every page of his or her transcribed statement, the requirement for a translator is crucial. U.S. citizens who are arrested are encouraged not to sign any statements unless an English translation is provided and they fully understand the statement.

While an attorney or legal representative may be present during questioning, the investigator has the discretion to bar defense counsel from attending a detainee's questioning. Often, third parties, including consular staff, are not permitted in the courtroom during judicial proceedings.

There may be pre-trial hearings regarding your case leading up to the trial date. These hearings are usually technical, where motions are reviewed and dates are set. Most of the time, your legal representative will attend these hearings.

TRIAL

Cases are usually brought to trial once the investigation is complete. Trials are heard in Arabic by a judge; there is no jury system in Kuwait. In addition to the judge and yourself, trials are attended by the court (typically three legal representatives); the secretary of the tribunal; the prosecutor; your attorney; and an interpreter, usually an employee of the Ministry of Justice. Attendance is mandatory.

After the trial is concluded, the judge will pronounce sentence. If you are convicted, you can appeal within 30 days. The appeals process can be lengthy, often taking many months. If you do not appeal, the verdict will be considered final. If you are fined, a travel ban will remain in place until you pay the fine.

PRISON LIFE

There are three prisons in Kuwait, all co-located:

- Central Prison, a high security men's facility for those convicted of serious crimes. The prison is very crowded.
- Public Prison, a lower security men's facility for those convicted of less serious crimes. Public Prison is less crowded than Central Prison.
- Women's Prison. All women, regardless of nationality or religion, are required to wear a head covering, called a *hijab*, in Women's Prison.

SMOKING

Only men are allowed to smoke in prison.

THE PRISON CO-OP

Each prison has a co-op, where you can purchase toiletries, additional food, electronic items, blankets, and other items. To purchase items at the co-op, you will need cash in Kuwaiti Dinar (KD). To obtain cash, you must create an account with the prison treasury. You cannot deposit more than 500KD (approximately \$1600) every two weeks.

You are allowed to have electronics, including a radio, CD player, and/or television, but they must be purchased from the prison co-op. Many prisoners have cell phones, but prisoners are not authorized to have them. You can, and most likely will, be punished if you are caught with one.

Your friends and family can set up a trust account through the Department of State's Office of Overseas Citizens Services (OCS) to transfer money to you. Upon receipt of funds, OCS will transfer the money to the U.S. Embassy in Kuwait for disbursement to the recipient. The fee for establishing a trust account is \$30. The recipient's name and overseas location (city, country) must be provided with the fund transfer, or the transfer will be delayed. The Embassy normally disburses funds in the foreign country's currency and not in U.S. dollars. Trust fund transfers are a one-time service, except in specific, pre-approved circumstances. Funds sent during non-business hours may not be processed until the next business day. Questions can be directed to OCS at 1-888-407-4747.

TELEPHONE CALLS

You are allowed one telephone call a week, which you can request from the social supervisor.

WORKING

You can work in the prison at the discretion of the prison manager. Both male and female prisoners can work in workshops, for which they are paid a small salary.

MEDICAL CARE

While you are imprisoned, you will receive dental and medical care. If you have a serious medical condition which requires treatment, you will be referred to one of the public hospitals.

EXERCISE

Outdoor exercise is not consistently held.

VISITS

Consular staff will visit you once every six months during the duration of your sentence. Immediate family can visit you every two weeks. Your immediate family can also make a special visit to you once a month, subject to good behavior.

Visits occur between 8:00am and noon. No more than three visitors can attend a visit at one time. Visitors will be separated from you by a mesh barrier.

Visitors must identify themselves with a photo ID when they arrive at the prison. The prison will hold the visitor's photo ID during the visit; it will be returned when the visitor leaves. Visitors will be body searched before entering the prison. Visitors are not permitted to wear watches, jewelry, or belts, and may not bring in bags, handbags, or purses. Items allowed are at the discretion of the guards.

PACKAGES AND MAIL

If you have family or friends who want to send you packages containing food items, clothing, reading material, or other items, please be aware of the following:

- The U.S. Embassy cannot accept, forward, or deliver packages to people detained in Kuwait
- Certain items are expressly forbidden: anything containing alcohol (including mouthwash and vanilla extract); pornography or suggestive reading material of any kind; any publication with photographs
- Reading materials are censored according to Islamic law and norms.

PRISON TRANSFER

Because no prisoner exchange agreement exists between the United States and Kuwait, you cannot be transferred to a U.S. prison to serve the balance of your sentence.

AMIRI PARDON AND PAROLE

In some years, the Amir of Kuwait will issue pardons or paroles to prisoners serving sentences in Kuwaiti prisons. If you have been convicted of a serious crime, it is not likely that you will be included in the Amir's list.

RELEASE AND DEPORTATION

If you have been convicted of a crime and serve a term in prison, you will automatically be deported after you have served your sentence.

You will be taken to the Deportation Center in Jleeb Al-Shuyoukh. Your sponsor is responsible for purchasing your plane ticket. However, some sponsors deliberately delay purchasing and bringing the ticket to the Deportation Center until a family member or friend purchases one. If no family or friends are available or able, you must request that the prison authorities arrange a ticket for you. The Kuwaiti government will charge your sponsor for the ticket.

Regardless of who buys the ticket for you, you will only be allowed to fly back to the United States.

USEFUL ENGLISH/ARABIC WORDS

ENGLISH	ARABIC
Amnesty / Pardon	<i>Afou</i>
Appeal	<i>Istiinaf</i>
Application form	<i>Talab</i>
Bathroom	<i>Hammaam</i>
Blanket	<i>Battaniya</i>
Blood test	<i>Fahs dam</i>
Book	<i>Kitaab</i>
Case	<i>Kadiya</i>
Case number	<i>Rakam al Kadiya</i>
Central Prison	<i>Al Sejin Al Markazi</i>
Clinic	<i>Eyadda</i>
Complaint	<i>Shakwa</i>
Court	<i>Mahkama</i>
Deportation	<i>Iba'ad</i>
Deposit	<i>Amanat</i>
Doctor	<i>Tabeeb</i>
Embassy	<i>Safara</i>
Federal Supreme court	<i>Al Mahkama Al Itihadiya</i>
Food	<i>Ta-Aam</i>
Guilty	<i>Mouznib</i>
Hearing session	<i>Jalsat Istimaa</i>
Indictment	<i>Al Touhma</i>
Innocent	<i>Barei</i>

Interpreter	<i>Moutarjem</i>
Jail	<i>Sejin</i>
Judgement	<i>Mouhakama</i>
Lawyer	<i>Mouhami</i>
Library	<i>Maktaba</i>
Money	<i>Feloos</i>
No Problem	<i>Ma fi Moushkila</i>
Notary	<i>Kateb Adel</i>
Plaintiff	<i>Al Moudaii</i>
Police	<i>Shurta</i>
Power of attorney	<i>Wakala</i>
Prison Director	<i>Mudir Al Sejin</i>
Prison rules	<i>Kanoun Al Sejin</i>
Problem	<i>Mushkila</i>
Prosecutor	<i>Niyaba</i>
Release	<i>Efracj</i>
Security	<i>Amn</i>
Sentence	<i>Oukouba</i>
Sentence	<i>Al Hokom</i>
Sharia'a Court	<i>Al Mahkama Al Shariaa</i>
Sick	<i>Mareed</i>
Soap	<i>Saboon</i>
Telephone call	<i>Moukalamat telephone</i>
The Accused	<i>Al Mutaham</i>
To buy	<i>Ashtary</i>
Tomorrow	<i>Boukra</i>

Visit	<i>Zieyara</i>
Ward number	<i>Rakam Al Anbar</i>
Water	<i>Maa</i>
Witness	<i>Shahed</i>

LIST OF ATTORNEYS

The U.S. Embassy Kuwait assumes no responsibility or liability for the professional ability, or reputation of, or quality of services provided by the following persons or firms. This list is in no way an endorsement by the Department of State or the U.S. Embassy. The list is alphabetical; the order has no other significance. The information in the list is provided by the lawyers. Additional information is available from the Kuwait bar association or local licensing authorities.

1. Mr. Labeed Abdal (Kuwaiti)

The Law Firm of Labeed Abdal

Al-Mubarakiya - Ali Al-Salem Street, Hamad Commercial Center

P.O Box 29175, SAFAT, Post Code 13152, Kuwait

Tel: 2240-7020 or 2243-3707/717/787, Fax: 2243-3757,

E-mail: info@lalaw.com ; labeed.abdal@gmail.com

Website: www.labeedabdal.com

Criminal, civil, and commercial cases

Languages: Arabic and English

2. Mr. Abdul Rahman Naser Al-Abdul Aaly (Kuwaiti)

AL-ABDULALLY – AL-NAQEEB & Partners

Sour Tower, 7th Floor, Sour St., Salhiya

P.O. Box 26994, Safat 13130 Kuwait

Tel: 2242-4141/2, Fax: 2245-9212, Email: rahman@alabdulaaly-law.com

General, including criminal and civil

Bachelor of Law, Kuwait University; Languages: English and Arabic

3. Mr. Anwar Nasser Al-Bisher (Kuwaiti)

ANWAR AL-BISHER & Partners

P.O. Box 26292, Safat 13123 Kuwait, Chamber of Commerce Building, 6th floor

Tel: (965) 2243-1122, Fax: (965) 2240-2501, Email: anwar@albisherlaw.com

Commercial, corporate, civil cases; no personal or criminal cases

LL.B., Kuwait University; Languages: English and Arabic

4. Mr. Talal A. Al-Bisher (Kuwaiti)

ANWAR AL-BISHER & Partners

P.O. Box 26292, Safat 13123 Kuwait, Kuwait Chamber of Commerce, 6th floor

Tel: (965) 2243-1122, Fax: (965) 2242-0501, Email: talal@albisherlaw.com

Commercial, corporate, civil cases; no personal or criminal cases

LL.B., Kuwait University; Languages: English and Arabic

5. Mr. Omar Hamad Al-Essa, (Kuwaiti)

Sharq – Jaber Mubarak Street, Commercial Real Estate Bldg, 3rd Floor

Tel: 2243-8020/1/2/- 2243-8033, Fax: 2243-2272

E-mail: info@alessalaw.com

General, corporate, criminal

Languages: Arabic and English

6. Mr. Meshari M. Al-Ghazali (Kuwaiti)

M. M. AL-GHAZALI & Partners

Chamber of Commerce Bldg, 1st floor, P.O. Box 26161, Safat 13122 Kuwait

Tel: (965) 1802234 - 2243-9690/1, Fax: (965) 2242-2895,

Email: mail@alghazali-law.com

Commercial and civil cases; no criminal, marriage, divorce, or child custody

LL.B., Kuwait University; Language: English and Arabic

7. Ms. Faten Farouq Al-Naqeeb (Kuwaiti)

Sharq - Raed Center 7th Floor, Ahmed Aljaber St., P.O. Box 5706, Safat 13058 Kuwait

Tel: 2244-7415/6, Fax: 2246-6780

Email: faten@alnaqeebpartners.com

General, commercial, criminal, marriage, divorce, child custody, adoptions

Bachelor of Law, Kuwait University; Languages: English and Arabic

Partners with ALI & Partners in Washington DC www.alnaqeebpartners.com

8. Dr. Ahmad Dhaen Al-Samdan (Kuwaiti)

International Legal Group

Al Tijaria Tower, Floor 12, Al Sour Street, Block 3, Al Murgab, Kuwait city, Kuwait

P.O. Box 23932, Safat 13100 Kuwait. Tel: 2246-1840/1, Fax: 2249-2096

Email: Abdullah.Alsamdan@ilg.com.kw

General, including family law, immigration, commercial and civil cases; no criminal or auto/accidents

Duke University; Languages: English and Arabic

9. Mr. Wadih Philippe Khalaf (Lebanese) *

WADIH PHILIPPE KHALAF & ASSOCIATES; AL OTHMAN & KHALAF

Kuwait Free Trade Zone—Shuwaikh Port, Bldg. # 3, Apt # 31(sea side) Kuwait

Tel: 2484-5262 / 2482-1612, Fax: 2481-9311

Email: attorneys@wphklaw.com

General, including criminal, child custody; no marriage, divorce, or adoptions

LL.B., Lebanese University; Languages: English, Arabic and French

*Can act only as consultant.